

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

DOCKET NO. 1:16-cr-242

vs.

LAWRENCE GERARD NASSAR,

Defendant.

1

TRANSCRIPT OF ARRAIGNMENT, INITIAL PRETRIAL CONFERENCE,

## AND DETENTION HEARING

BEFORE UNITED STATES MAGISTRATE JUDGE RAYMOND S. KENT

## GRAND RAPIDS, MICHIGAN

December 21, 2016

Court Reporter:

Glenda Trexler  
Official Court Reporter  
United States District Court  
685 Federal Building  
110 Michigan Street, N.W.  
Grand Rapids, Michigan 49503

Proceedings reported by audio recording, transcript produced by computer-aided transcription.

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12 \* \* \* \* \*

13 Grand Rapids, Michigan

14 December 21, 2016

15 1:31 p.m.

16 P R O C E E D I N G S

17 *THE COURT:* This is 16-cr-242, United States versus  
18 Lawrence Gerard Nassar. Mr. Lewis appears on behalf of the  
19 United States and Mr. Newburg on behalf of Dr. Nassar.

20 Dr. Nassar, we're here this afternoon, we have three  
21 matters scheduled for hearing. The first is an arraignment.  
22 It's going to sound almost identical to the initial appearance  
23 we did last week. The only -- or the big difference being at  
24 the appropriate time I'm going to ask Mr. Newburg to enter a  
25 plea on your behalf to the charges against you.

1                   The second matter up is an initial pretrial  
2 conference. Mr. Newburg has filed a one-page form with me  
3 before court. I'll go through that with you. And the  
4 government has filed a longer form in which it details some of  
5 the kinds of evidence it claims to have against you. And I'll  
6 go through that with you as well when we get there.

7                   And then the last matter up this morning will be a  
8 bond hearing. The government will have the burden of proving  
9 by a preponderance of the evidence that you are a risk of  
10 nonappearance or by clear and convincing evidence that you're a  
11 danger to the community. If it fails to do that, I'll order  
12 you released on bond.

13                  My first question for you today is the same as it was  
14 last week, and that is how far you got in school. I don't  
15 remember where you got your M.D.

16                  *THE DEFENDANT:* Um, D.O., osteopathic physician,  
17 Michigan State University.

18                  *THE COURT:* All right. And where did you do your  
19 undergrad?

20                  *THE DEFENDANT:* University of Michigan, Ann Arbor.

21                  *THE COURT:* All right. Dr. Nassar, do you have any  
22 physical or mental condition that would make it difficult for  
23 you to understand the charges or follow what's happening in  
24 court?

25                  *THE DEFENDANT:* No, Your Honor.

1                   **THE COURT:** In the last 24 hours, have you had any  
2 drugs, alcohol, or medicine that might impair your ability to  
3 either understand the charges or follow the proceedings?

4 THE DEFENDANT: No, Your Honor.

THE COURT: Dr. Nassar, you have the right to remain silent. You don't have to say anything to me about these charges. You don't have to say anything to Mr. Lewis. You don't have to say anything to any member of law enforcement. But if you were to talk to anybody other than Mr. Newburg, your statements could be used against you in later court proceedings.

12 || Do you understand that?

14                   *THE COURT:* You have the right to a lawyer. You're  
15 always free to hire your own lawyer. You've hired Mr. Newburg.  
16 But let me say to you that if at any time you were unable to  
17 continue Mr. Newburg as your lawyer, let's say for example you  
18 could no longer afford to pay him, you have only to ask me, and  
19 if you qualify financially, I will appoint a lawyer to  
20 represent you.

21 || Do you understand that?

22 || THE DEFENDANT: Yes, Your Honor.

23                   THE COURT: Dr. Newburg [sic], have you received a  
24 copy of the Indictment?

25 MR. NEWBURG: We have, Your Honor.

1                   **THE COURT:** All right.

2                   **MR. NEWBURG:** I've also gone through the Indictment  
3 with my client. We'll waive the reading of the Indictment.

4                   **THE COURT:** Thank you.

5                   Dr. Nassar, you are in fact the Lawrence Gerard  
6 Nassar named in the Indictment?

7                   **THE DEFENDANT:** Yes, Your Honor.

8                   **THE COURT:** And is your name spelled correctly there?

9                   **THE DEFENDANT:** Yes, Your Honor.

10                  **THE COURT:** All right. The Indictment charges you  
11 with two crimes and then makes civil claims against you. The  
12 two crimes are contained in Counts 1 and 2.

13                  Count 1 charges you with receipt of child  
14 pornography. The government claims that between September 2004  
15 and December 2004 in Ingham County you received over the  
16 internet images of child pornography, some of which are  
17 identified by file name in the count.

18                  Do you understand what you're charged with in  
19 Count 1?

20                  **THE DEFENDANT:** Yes, Your Honor.

21                  **THE COURT:** Count 2 charges possession of child  
22 pornography. The government claims that between February of  
23 '03 and September of this year, also in Ingham County, you  
24 knowingly possessed one or more computer disks, electronic  
25 files, and other materials containing images of child

1 pornography. And again some of those are specifically  
2 identified in the count.

3 Do you understand what you're charged with in  
4 Count 2?

5 *THE DEFENDANT:* Yes, Your Honor.

6 *THE COURT:* Finally, the forfeiture allegation is a  
7 civil claim. The government is asking that it be allowed to  
8 seize and keep any property of yours used or intended to be  
9 used to commit the offense you may be convicted of, including  
10 but not limited to an AcomData hard drive.

11 Do you understand the nature of the forfeiture  
12 allegations?

13 *THE DEFENDANT:* Yes, Your Honor.

14 *THE COURT:* If you were to be convicted of Count 1,  
15 the maximum penalty that the Court could impose would be a  
16 period in prison of not less than five years or more than 20  
17 years, a fine of up to \$250,000, a period of supervised release  
18 of not less than five years, and up to lifetime supervision.

19 Supervised release is a time following your release  
20 from any prison term during which you would remain under the  
21 supervision of Judge Janet Neff. Judge Neff is the trial judge  
22 assigned to your case and the judge who will sentence you if  
23 you're ever convicted of anything.

24 Judge Neff will impose conditions on your supervised  
25 release. If you were to violate any of those conditions, you

1 could be sent back to prison.

2                 There is a court cost or special assessment of a  
3 hundred dollars. And you may be required to pay restitution to  
4 any of the victims.

5                 Do you understand the maximum penalties on Count 1?

6                 *THE DEFENDANT:* Yes, Your Honor.

7                 *THE COURT:* On Count 2 the maximum penalties include  
8 not more than 20 years in prison, a fine of not more than  
9 \$250,000, again supervised release of not less than five years  
10 and up to life, a court cost of \$100, an additional special  
11 assessment of \$5,000, and again you could be ordered to pay  
12 restitution to the victims.

13                 Do you understand the maximum penalties on Count 2?

14                 *THE DEFENDANT:* Yes, Your Honor.

15                 *THE COURT:* Dr. Nassar, you have important  
16 constitutional rights in this case. We have talked about two  
17 of them already. We've talk about your right to remain silent  
18 and we've talked about your right to a lawyer.

19                 You've also received another important constitutional  
20 right already, and that is the right to have the evidence  
21 against you reviewed by a grand jury. A grand jury is a group  
22 of 16 to 23 residents drawn from the community. They meet here  
23 in this courthouse and review evidence presented to them by  
24 Mr. Lewis and his colleagues. Their job is then to determine  
25 whether or not the evidence gives rise to probable cause to

1 believe somebody has committed a federal crime.

2                 In your case the jury reviewed the evidence and  
3 concluded there was probable cause to charge you with the two  
4 crimes laid out in the Indictment. We know that for two  
5 reasons. One, the document you're charged with is called an  
6 Indictment. That's a document a federal grand jury uses to  
7 charge somebody with a crime. And secondly, on the last page  
8 the Indictment has been signed by the foreperson of the  
9 grand jury. So we know you've actually received that right  
10 already.

11                 You have other very important rights, including, of  
12 course, the right to be presumed innocent, which you are as you  
13 sit here in court this afternoon. You have the right to have  
14 the government prove you guilty beyond a reasonable doubt on  
15 each and every element of the two crimes that it's charged you  
16 with. That would occur at a speedy and public trial before 12  
17 jurors drawn from the community. These would be 12 entirely  
18 different people than the folks who sat on the grand jury and  
19 reviewed the evidence in your case.

20                 At that trial you would have the right through  
21 Mr. Newburg to question or cross-examine the government's  
22 witnesses, to call your own witnesses and have the court order  
23 them to appear and testify. You would have the right to  
24 present other evidence which you believe demonstrates you're  
25 not guilty of these charges.

1                   And finally, you would have the right to either  
2 testify yourself or remain silent and not have your silence  
3 used against you in any way.

4                   We have projected up on the screen a Defendant's  
5 Rights Form which summarizes your constitutional rights. Is  
6 that your signature at the bottom of the form?

7                   *THE DEFENDANT:* Yes, Your Honor.

8                   *THE COURT:* Did you read and understand that form  
9 before you signed it?

10                  *THE DEFENDANT:* Yes, Your Honor.

11                  *THE COURT:* Do you understand the constitutional  
12 rights you have in this case?

13                  *THE DEFENDANT:* Yes, Your Honor.

14                  *THE COURT:* Dr. Nassar, there's four ways you can  
15 plead here this afternoon. The first is not guilty. Second,  
16 you can say nothing or stand mute, in which case I will enter a  
17 plea of not guilty for you. Third, you could plead guilty.  
18 And fourth, with the consent of Mr. Lewis and me, you could  
19 plead something called no contest which has essentially the  
20 same effect as a guilty plea.

21                  Do you understand your four options?

22                  *THE DEFENDANT:* Yes, Your Honor.

23                  *THE COURT:* Mr. Newburg, how does Dr. Nassar plead to  
24 the two counts of the Indictment?

25                  *MR. NEWBURG:* He enters a plea of not guilty to each

1 count.

2                   *THE COURT:* All right. A not-guilty plea will be  
3 entered on each count. Dr. Nassar, that concludes the  
4 arraignment.

5                   We're going to move now to the pretrial conference.  
6 I'm going to start with the form which Mr. Newburg filed. In  
7 it he's asking that if your case goes to trial that it be a  
8 jury trial as opposed to a trial before Judge Neff without a  
9 jury.

10                  He's asking that the government disclose whether it  
11 intends to introduce evidence that you have engaged in conduct  
12 somehow similar to the conduct charged in this case on some  
13 other occasion.

14                  And finally, Mr. Newburg has agreed on your behalf to  
15 provide the government with any information that you're  
16 required by law to provide. There isn't very much of that, but  
17 he's agreeing to do what the law requires.

18                  Mr. Lewis, any questions for Mr. Newburg?

19                  *MR. LEWIS:* No, thank you, Your Honor.

20                  *THE COURT:* All right. We're going to turn, then, to  
21 the government's form.

22                  The government states that it has no written records  
23 of statements made by you. There are, however, statements made  
24 at the time of your arrest and also that you apparently  
25 consented in writing to the seizure and search of certain

1 electronic devices.

2 The government has looked into your prior criminal  
3 history and found none.

4 The government has other evidence including child  
5 pornography computer records and business records.

6 Mr. Lewis, on your Initial Pretrial Conference  
7 Summary Statement there's a reference in Section C to "See  
8 discovery letter," but it doesn't seem to be attached here.

9 *MR. LEWIS:* Correct. I provided that to Mr. Newburg  
10 via USA FX. It's a very detailed indexing of all of the  
11 discovery materials that are provided with reference to Bates  
12 numbers. It just goes through and lays out in detail for him  
13 to help him navigate the voluminous discovery in this case.

14 *THE COURT:* All right. Thank you.

15 So, Dr. Nassar, Mr. Newburg evidently has access to  
16 and perhaps has even already downloaded from the cloud,  
17 whatever that means, all of the government's discovery in this  
18 case. I'm sure he'll -- if he hasn't already -- I'm sure at  
19 the appropriate time he'll sit down with you and go through  
20 that with you in detail.

21 There were two federal -- state or federal search  
22 warrants?

23 *MR. LEWIS:* There was one state search warrant and  
24 two federal search warrants. They have all been provided to  
25 Mr. Newburg.

1                   **THE COURT:** Okay. So I'm sure Mr. Newburg will go  
2 through those with you as well.

3                   The government expects to have reports following  
4 computer forensic examination of devices it has seized.

5                   In response to Mr. Newburg's question about other  
6 similar conduct by you, the government is giving you notice  
7 that it does intend to introduce evidence, including evidence  
8 of possession of child pornography on numerous devices, as well  
9 as the destruction and attempted destruction or spoliation of  
10 evidence as documented in police reports provided to  
11 Mr. Newburg. And there may be additional such evidence which  
12 the government will provide notice of at least two weeks prior  
13 to the final pretrial conference.

14                  The government is also asking for a jury trial. It  
15 estimates it will last three to four days.

16                  All right. Mr. Lewis, you checked a box here that --  
17 in the Miscellaneous section saying it may be that Mr. Newburg  
18 has a potential conflict of interest. What's that all about?

19                  **MR. LEWIS:** Your Honor, while agents were present at  
20 the defendant's home on Friday arresting him, his wife was also  
21 present. After the defendant had been removed, one of the  
22 defendant's current lawyers in the state court matter was on  
23 the phone with the wife providing her with advice to include  
24 not to cooperate with law enforcement and not to provide them  
25 with information.

1                   I've spoken to Mr. Newburg. He has stated to me that  
2 he and cocounsel do not technically represent the wife, but  
3 given that information and the nature of the legal advice that  
4 was being provided, I felt it was incumbent to make that known  
5 to the Court. It at least raises the specter of a potential  
6 conflict of interest. If they weren't representing her, one  
7 could ask why they were providing her advice not to cooperate  
8 with law enforcement, which raises a whole bunch of additional  
9 issues. But I did want to raise it with the Court.

10                  *THE COURT:* All right. Thank you, Mr. Lewis.

11                  I would say for the record, I don't perceive -- if  
12 there's no more to it than that, I don't perceive that that  
13 would give rise to a conflict of interest. Obviously the  
14 government is free to pursue that with Judge Neff by filing a  
15 motion seeking Mr. Newburg's disqualification, but I don't see  
16 it. And that's not to say Judge Neff may not see it  
17 differently.

18                  And finally, Dr. Nassar, there's a plea negotiation  
19 policy that you should be aware of. If you intend to have  
20 Mr. Newburg attempt to negotiate a plea bargain for you in this  
21 case, the plea bargain would have to be finalized not less than  
22 two weeks before the final pretrial conference if you were to  
23 receive the maximum benefit in terms of a reduced sentence.  
24 Mr. Newburg will keep a close eye on that date for you, and I'm  
25 sure he'll talk to you at length about the issue of plea

## DIRECT EXAMINATION OF ROD CHARLES

1 bargaining or all of your other options.

2 Mr. Newburg, any questions for Mr. Lewis on the  
3 government's form?

4 MR. NEWBURG: No, Your Honor.

5 THE COURT: Dr. Nassar, that concludes, then, the  
6 initial pretrial conference, leaving only the issue of bond.

7 Mr. Lewis, how are we going to proceed on this  
8 matter?

9 MR. LEWIS: Your Honor, the government is continuing  
10 with its request for detention pending resolution of this  
11 matter. There is a presumption in this case. I know the Court  
12 is going to want to hear additional information. It is  
13 important to present that information. So I would, if the  
14 Court is ready for me to proceed with proofs, call  
15 Special Agent Rod Charles.

16 THE COURT: Sure. Call your witness.

17 ROD CHARLES

18 (*The oath was administered*)

19 THE WITNESS: I do.

20 THE CLERK: Please have a seat.

21 MR. LEWIS: May I proceed?

22 THE COURT: Yes.

23 DIRECT EXAMINATION

24 BY MR. LEWIS:

25 Q. Good afternoon. Will you introduce yourself to the Court,

*DIRECT EXAMINATION OF ROD CHARLES*

1 please, and spell your name for the record.

2 A. Yes. My name is Special Agent Rod Charles. My last name  
3 is C-H-A-R-L-E-S.

4 Q. Are you an FBI agent?

5 A. I am.

6 Q. How long have you been employed with the FBI?

7 A. Approximately 22 years.

8 Q. In your work as an FBI agent, do you investigate cases  
9 involving the sexual exploitation of children to include the  
10 distribution, receipt, and possession of child pornography?

11 A. I do.

12 Q. In the course of your work as an agent, have you been  
13 involved in the investigation of the defendant, Larry Nassar,  
14 related to the charges in the Indictment in this case?

15 A. I have.

16 Q. Do you see the person who you have been investigating here  
17 in the courtroom?

18 A. I do. He's the gentleman at the defense table in the red  
19 shirt, glasses, and black hair.

20 *MR. LEWIS:* For the record, the witness has  
21 identified the defendant.

22 Q. (BY MR. LEWIS) Now, Agent Charles, back in late August of  
23 2016, this year, did MSU Police begin an investigation into the  
24 defendant after a victim with the initials RD filed a report?

25 A. Yes, they did.

*DIRECT EXAMINATION OF ROD CHARLES*

1 Q. That victim, RD, was that somebody who had been a patient  
2 of the defendant's back in or around 2000?

3 A. Yes.

4 Q. And how old was RD at the time?

5 A. Fifteen.

6 Q. Can you tell the judge a little bit about the nature of  
7 the offense as reported by RD.

8 A. She was a gymnast and had some back, hips, and she  
9 described it as gluts and a wrist injury, and she started  
10 seeing Dr. Nassar on February 2nd, 2000, where he was adjusting  
11 her hip. And while adjusting her hip, his hand slipped up  
12 inside her pants, her leotard, and two fingers went inside her  
13 vagina.

14 Q. And according to RD, was that something, that digital  
15 penetration of her vagina, that happened one time or more than  
16 one time?

17 A. More than once. There were subsequent visits on  
18 February 23rd where he was -- penetrated her vagina, was  
19 thrusting and sweeping, and then he also then when he pulled  
20 his fingers out massaged the vaginal area.

21 Q. Okay. Did RD describe whether or not the defendant was  
22 sexually -- visibly sexually aroused in some way?

23 A. At a later appointment, I believe it was March 3rd or  
24 March 8th, he was doing similar -- the thrusting and sweeping  
25 of the vagina and also penetrating her anus with his -- her --

*DIRECT EXAMINATION OF ROD CHARLES*

1 excuse me -- his thumb. And during that, when he stopped that,  
2 he was cupping her breast at one point, and she looked and  
3 noticed that he had an erection.

4 Q. Now, during these times that RD reported that the  
5 defendant was digitally penetrating her, was he wearing gloves?

6 A. No, he was not.

7 Q. And then did he obtain RD's consent to digitally penetrate  
8 her?

9 A. No, he did not.

10 Q. Now, on August 30th of this year did the defendant become  
11 aware of the police investigation?

12 A. Yes.

13 Q. Specifically was he interviewed by MSU Police on that  
14 date?

15 A. He was.

16 Q. Now, did there come a time the following month in  
17 September of this year when MSU made the decision to terminate  
18 the defendant?

19 A. Yes, I believe it was September 16th they sent him a  
20 termination or intent to terminate notice.

21 Q. Had the defendant been assigned a work laptop?

22 A. Yes.

23 Q. Did there come a time when MSU directed him to turn that  
24 laptop back in?

25 A. Yes. Like September 18th he sent an email acknowledging

*DIRECT EXAMINATION OF ROD CHARLES*

1       this intent to terminate. On September 19th he turned in the  
2       work top -- excuse me -- work laptop. And on September 20th  
3       there was an official termination letter.

4       Q.      The laptop that the defendant turned in on the 19th, was  
5       it later forensically examined?

6       A.      It was.

7       Q.      Was there anything on that computer?

8       A.      No, it had been completely wiped, including the operating  
9       system. So everything was removed off of it.

10      Q.     Now, that next day, so September 20th of this year, did  
11       MSU Police execute a search warrant at the defendant's home in  
12       Holt, Michigan?

13      A.     They did.

14      Q.     At the time they executed that warrant, was there a trash  
15       can that was pulled out by the curb in front of that home?

16      A.     Yes. Trash pickup was late that day, and the trash bin  
17       was placed out by the road, so near the end of the search  
18       warrant one of the officers had looked into the trash  
19       receptacle, yes.

20      Q.     And what did he see?

21      A.     And on top of the trash was an external hard drive  
22       entitled an Acom hard drive. They then secured the trash, took  
23       it back to the department and searched the rest of the trash.  
24       They found a small plastic bag, a grocery bag, with three other  
25       external hard drives in it. Two of them had handwritten on it

*DIRECT EXAMINATION OF ROD CHARLES*

1        "Larry Nassar, Gymnastics," and one, I believe, had his phone  
2        number on it.

3              The other one was a Toshiba that was unlabeled. They were  
4        all three in the same trash bag. Or little grocery bag.

5        Q. All right. I want to talk to you about that Acom for a  
6        moment. Was that device, that external hard drive, later  
7        forensically examined?

8        A. It was.

9        Q. Did the examiner find any child pornography on that  
10       device?

11       A. He did. Approximately 37,000, I believe, images. Video  
12       and images.

13       Q. All right. Now, that 37,000 images, did that include both  
14       the saved images and videos as well as images and videos that  
15       were recovered forensically?

16       A. Yes, they were. There was a lot in the unallocated space.

17       Q. But at a bare minimum, were there in excess of 16,000  
18       images and videos that were saved, they were not deleted?

19       A. Correct.

20       Q. Now, can you give the judge a sense as to -- when you say  
21       child pornography, what did these images and what did these  
22       videos depict?

23       A. They ranged from a range of erotica. Young girls under  
24       the age of 12 in attire or just exposing themselves to  
25       hard-core pornography with penetration with a male penis,

*DIRECT EXAMINATION OF ROD CHARLES*

1       dildos. Two females, young females together.

2           Or then you had the videos where young girls under the age  
3       of 12 were self-stimulating themselves or using Sharpies or so  
4       forth.

5       Q. And you may have mentioned it, but what age range?

6       At least at this point what's the youngest that you can recall  
7       seeing?

8       A. I'd say approximately six, seven, somewhere in that range.  
9       The majority under 12 years of age, not developed.

10      Q. All right. And then so in addition to the Acom, has child  
11       pornography been found on some of the other devices? For  
12       instance, that Toshiba you mentioned?

13      A. Yes, the Toshiba hard drive that was found in the trash  
14       with the other two hard drives that had Larry Nassar's name on  
15       it, that Toshiba was found to have -- the forensic examiner was  
16       able to recover maybe 30 images, I can't remember the exact  
17       number, of video and still pictures.

18      Q. Is it fair to say, at least based on what the examiner  
19       knows at this point, most of the items of child pornography on  
20       the Toshiba was deleted, it's in unallocated space?

21      A. That is correct.

22      Q. All right. And then how about any of the items in the  
23       house? Were any items of electronic evidence seized from the  
24       house?

25      A. Yes, there was a number of items, but on the Acer laptop

*DIRECT EXAMINATION OF ROD CHARLES*

1       that was found in the house there was also a number of images  
2       similar to the Toshiba that were in unallocated space that were  
3       recovered that were child porn of the same nature, including a  
4       video.

5       Q. Now, is it fair to say that the forensic review of the  
6       materials seized from the defendant's home is ongoing?

7       A. It is.

8       Q. Now, we talked about a little earlier a sexual assault  
9       allegation by the victim RD. Has MSU Police received any other  
10      allegations, reports by other victims that the defendant  
11      sexually assaulted them?

12      A. Yes, they have received numerous complaints. I think they  
13      are up close to maybe 60, way over 50 victims, complaints so  
14      far.

15      Q. Okay. Now, we're not going to talk about all of them  
16      today, but is one of those victims that has come forward, has  
17      the state actually gone ahead and charged the defendant with  
18      CSC in the first degree?

19      A. They have.

20      Q. Is that a victim with the initials KS?

21      A. It is.

22      Q. According to KS, approximately when did the sexual abuse  
23      occur and how old was she?

24      A. It started around January of 1999, and she was  
25      approximately six years of age at the time.

## DIRECT EXAMINATION OF ROD CHARLES

1 Q. And when did it end?

2 A. It ended around 2004. She would have been around 12 years  
3 of age.

4 Q. Can you tell the judge a little bit about what it was that  
5 the defendant did to that victim?

6 A. Yes. This victim was -- her parents were family friends  
7 of the Nassars, and they frequently went over to the Nassar  
8 residence. She described probably every other week almost.

9 During those visits the defendant often went to the  
10 basement where she was at and initially had started playing  
11 hide and seek, he would then find her but pretend he didn't see  
12 her and stand in front of her, expose himself, and masturbate  
13 in front of her.

14 Q. When you say expose himself, do you mean --

15 A. Expose his penis, correct. And I think he made the  
16 comment something about "If you want to see or touch it, you  
17 can."

18 Q. Did the conduct escalate?

19 A. Yes. Then it went on where he was on a couch with her.  
20 One instance was described as having a blanket over him, would  
21 rub her feet against his penis until he got an erection. And  
22 he would penetrate her vagina with his finger countless times  
23 she described.

24 When she was in sixth grade she saw something about this  
25 conduct isn't right and that's when she reported it and it

*DIRECT EXAMINATION OF ROD CHARLES*

1 stopped at that point.

2 Q. Now I want to talk about another victim with the initials  
3 JT. In or around 2012 -- I'm sorry -- 2011 was JT a patient of  
4 the defendant's?

5 A. Yes, she was another gymnast that suffered some heel, rib,  
6 some back and wrist injuries and saw Larry Nassar for about 12  
7 treatments from 2011 until approximately August of 2012.

8 Q. And how old was she in the beginning?

9 A. In 2011 she was 10 years old. And when it ended  
10 approximately 11 years old.

11 Q. Has that victim, JT, reported whether or not the defendant  
12 digitally penetrated her?

13 A. Yeah, the first occurrence when she was 12 years old,  
14 she --

15 Q. 12 years old?

16 A. Excuse me, 10 years old. My apologies. She discussed the  
17 first visit where he was adjusting her ribs and was touching  
18 her vagina under the leotards.

19 And then at 11-year-old, when she was 11, she had a foot  
20 injury, and he explained something about massaging the back of  
21 her legs and calves would help the foot injury, and while doing  
22 that he penetrated her vagina with his fingers, including  
23 touching her clitoral area very hard she said. She perceived  
24 him as being sweaty, and he used a lot of hand sanitizer  
25 afterwards.

## DIRECT EXAMINATION OF ROD CHARLES

1 Q. Was he wearing gloves?

2 A. No.

3 Q. And did the defendant obtain JT's consent or her parents' consent to be digitally penetrating her?

4 A. No.

5 Q. I want to talk to you about a victim with the initials MW.  
6 Was that girl a patient of the defendant's back in or around  
7 2014?

8 A. Yes.

9 Q. How old was she at that time?

10 A. She was 13.

11 Q. And has JT [sic] reported whether or not the defendant  
12 digitally penetrated her?

13 A. Yes. She described when she was 13 years old she was in  
14 his office getting treatment where he was rubbing her back,  
15 calves, legs, and hamstring, and he went inside her vagina. He  
16 had done this on multiple return visits for a hamstring -- it  
17 was a hamstring injury.

18 Q. Was he wearing gloves?

19 A. No, he was not.

20 Q. Did he obtain her consent to digitally penetrate her?

21 A. No.

22 Q. Just earlier this year, two thousand --

23 THE COURT: Mr. Lewis, just to move things along, you  
24 don't need to ask the agent whether she consented. They can't  
25

## DIRECT EXAMINATION OF ROD CHARLES

1 consent. They are children. There's no issue of consent here.

2 MR. LEWIS: Very good.

3 Q. (BY MR. LEWIS) All right. Earlier this year, in or about  
4 April of 2016, did MW go back to the defendant for some more  
5 treatment?

6 A. Yes.

7 Q. During that visit in April of this year, did MW report  
8 some inappropriate sexual-type behavior by the defendant?

9 A. Yeah, when she was 15, April 16th I have it, in April, she  
10 went in for treatment of a hip flexor and he had pulled her  
11 shorts exposing her vagina. She felt very uncomfortable.

12 Q. The last of these reporting victims I want to talk about  
13 is somebody with the initials EP. Between the fall of 2015 and  
14 earlier this year, 2016, was EP a patient of the defendant's?

15 A. Yes.

16 Q. How old was she?

17 A. She would have been 13 to 14 during that period.

18 Q. According to EP did the defendant digitally penetrate her?

19 A. Yes.

20 Q. Was he wearing gloves?

21 A. No.

22 Q. All right. The last -- the last thing I want to talk  
23 about is you had mentioned that Toshiba hard drive that came  
24 out of the trash. Do you recall that?

25 A. Yes, I do.

## DIRECT EXAMINATION OF ROD CHARLES

1 Q. Is review of the material on that Toshiba ongoing?

2 A. Yes, it is.

3 Q. In the review of that Toshiba has the forensic analyst  
4 found any pictures or videos depicting the defendant engaged in  
5 troubling sexual conduct with children?

6 A. Yes, he has.

7 Q. And can you tell the judge about that?

8 A. Yes. There's a large number of video in there from a  
9 GoPro video camera it appears to be. And the forensic examiner  
10 is just starting to go through those manually and review them.  
11 And we found one video that includes Dr. Nassar in a swimming  
12 pool with several children, a number of children. And in part  
13 of the clip towards the end he has the GoPro filming  
14 underwater. Most of the video is just him wandering the pool  
15 filming, and then all of the sudden he grabs this young girl's  
16 hand and shoves it into the crotch, vaginal area of another  
17 young girl, and you can see another hand pull back away.

18 Q. And there you have sitting in front of you what has been  
19 marked as Government Exhibit Number 1. It was previously shown  
20 to defense counsel. Do you recognize that exhibit?

21 A. I do.

22 Q. What is it?

23 A. It's a screen shot of that image.

24 Q. Does it fairly and accurately show that portion of the  
25 video?

## DIRECT EXAMINATION OF ROD CHARLES

1 A. It does.

2 MR. LEWIS: I move to admit that exhibit for purposes  
3 of this hearing.

4 THE COURT: Mr. Newburg, objections?

5 MR. NEWBURG: No objections.

6 THE COURT: It's admitted.

7 MR. LEWIS: Thank you, Your Honor.

8 Q. (BY MR. LEWIS) And there appears to be in the center of  
9 that photograph an adult's hand; is that correct?

10 A. That is correct.

11 Q. Whose hand is that?

12 A. Dr. Nassar's.

13 Q. Now, was that the only video that the analyst has found so  
14 far or were there more?

15 A. There were more.

16 Q. Can you tell the judge about what else he saw?

17 A. Well, there was another one where -- similar thing where  
18 Mr. Nassar is filming and he goes up to a young lady, a young  
19 female, and you see his hand kind of go on her hip with his  
20 thumb in the vaginal area. And then as he goes in, you see the  
21 tip of the thumb pressing into the vagina through the swimsuit.  
22 She has a swimsuit on.

23 Q. When he's doing that, does it appear in the video that  
24 he's inserting his thumb all the way up to the first knuckle?

25 A. Yes.

## DIRECT EXAMINATION OF ROD CHARLES

1 Q. You have in front of you what has been marked as  
2 Exhibits 2 and 3. Do you recognize those exhibits?

3 A. I do.

4 Q. What are they?

5 A. Those -- these are images, are screen shots, frame shots  
6 of those pictures that I just described.

7 Q. Do they fairly and accurately depict those portions of the  
8 video as you've described?

9 A. They do.

10 MR. LEWIS: I move Exhibits 2 and 3 into evidence.

11 THE COURT: Objections?

12 MR. NEWBURG: No objections.

13 THE COURT: They are admitted.

14 Q. (BY MR. LEWIS) Now, in each of those exhibits, 2 and 3,  
15 there appears to be an adult male's hand. Do you see that?

16 A. Yes.

17 Q. From a review of the evidence, whose hand is that?

18 A. Dr. Nassar's.

19 Q. What date were those images -- those videos, I'm sorry --  
20 written and saved to that Toshiba?

21 A. The dates on that we had recovered were April 2014, and  
22 there's a modified date, I believe, of September of 2014.

23 Q. And are there some additional videos as well that show  
24 things such as the defendant pulling down the tops of young  
25 girls, hands down in and around the pubic area, and things of

*CROSS-EXAMINATION OF ROD CHARLES*

1 that nature?

2 | A. Yes.

3 Q. The children that we saw in Exhibits 1, 2, and 3,  
4 approximately how old did they appear to be?

5 A. They weren't developed yet, so I'm saying under the age of  
6 12.

**MR. LEWIS:** The Court's brief indulgence.

Those are all the questions I have. Thank you.

9                   THE COURT: All right. Mr. Newburg,  
10                  cross-examination?

11 || MR. NEWBURG: Thank you.

## CROSS-EXAMINATION

13 BY MR. NEWBURG:

14 Q. You didn't personally see Dr. Nassar put those hard drives  
15 into the trash, did you?

16 | A. I did not.

17 Q. And other individuals and adults lived at that house,  
18 right?

19 || A. That is correct.

20 Q. And you don't know if those individuals had access to or  
21 were in possession of those hard drives while they were in the  
22 house, do you?

23 A. I do not.

24 Q. Okay. And the exhibits that are depicted which you just  
25 were discussing and the images that were found that you

*REDIRECT EXAMINATION OF ROD CHARLES*

1 previously testified to on those hard drives, they were not  
2 involved -- involving Dr. Nassar's children, were they?

3 A. I don't know who the children are. It appears to be a  
4 swimming pool in his backyard based on the deck there, but I  
5 can't positively identify them.

6 Q. You can't say those children were his, though, right?

7 A. They appeared -- some of them appeared to be, but I don't  
8 know that those specific ones are, no.

9 Q. Okay. And during the course of your investigation, did  
10 you investigate the medical procedures that were given by  
11 Dr. Nassar in some of the individuals that have made complaints  
12 to the Michigan State University Police Department? Do you  
13 know whether those procedures, medical procedures, are  
14 generally accepted?

15 A. My understanding is there is a procedure that is  
16 legitimate. It's the method that may be questioned.

17 Q. Okay. Thank you.

18 A. And the purpose or what the injury -- for what injury  
19 you're performing it for.

20 Q. Okay. I don't have anything further. Thank you.

21                   *THE COURT:* All right, Mr. Newburg.

22                   Redirect?

23                   *MR. LEWIS:* Just briefly.

24

25

## 1 REDIRECT EXAMINATION

2 BY MR. LEWIS:

3 Q. Counsel just asked you whether or not anyone saw  
4 Dr. Nassar, the defendant, place those hard drives in the  
5 trash. Do you recall him asking that question?

6 A. I do.

7 Q. Were there other materials on those drives written and  
8 authored by the defendant contemporaneous with when the child  
9 pornography was saved to those drives?

10 A. Yes.

11 MR. LEWIS: That's all. Thank you.

12 THE COURT: You may step down, Agent Charles. Thank  
13 you for your testimony.

14 THE WITNESS: Thank you.

15 THE COURT: Additional evidence, Mr. Lewis?

16 MR. LEWIS: No, thank you, Your Honor.

17 THE COURT: Mr. Newburg, evidence?

18 MR. NEWBURG: No, thank you, Your Honor.

19 THE COURT: Okay. Argument then.

20 MR. LEWIS: Thank you, Your Honor.

21 The starting point, of course, is the statutory  
22 presumption that the defendant should be detained given the  
23 nature of the charges. But here we have much, much more than  
24 that. Any case involving child pornography is, of course,  
25 serious. There are real victims. But here the defendant has

1 shown through his conduct that he's a hands-on offender. He's  
2 a hands-on offender in almost every context and position that  
3 he can work himself into. It's conduct that's been going on  
4 for more than 15 years. And it's not just conduct that  
5 happened a while ago and he's moved on. It's conduct that's  
6 continued to this year. It's conduct that, as the Court has  
7 heard, he took advantage of a childhood friend. He took  
8 advantage of numerous patients who were in his care. And then  
9 even in a swimming pool, he is -- and the Court has the photos  
10 in front of it -- just taking advantage of those children  
11 sexually, touching them, inserting -- the Court can see he's  
12 got his thumb jammed in there up to the first knuckle, taking  
13 videos of it. He has shown through his conduct that he cannot  
14 safely be released into the community.

15 He's also shown through his conduct that he has been  
16 engaged in the destruction and attempted destruction of  
17 evidence. He's wiped his hard drive to destroy evidence. He's  
18 discarded the hard drives containing the child pornography,  
19 which is, again, another significant risk factor.

20 Given his conduct and the nature of the charges in  
21 this case, even if we didn't enjoy the presumption, I think the  
22 government has proven by clear and convincing evidence there  
23 are no conditions that can guarantee the safety of children,  
24 including his own children in that house, if he were to be  
25 released. So we ask the Court to keep him detained for the

1 safety of the community while this case is pending trial.

2           **THE COURT:** All right. Thank you, Mr. Lewis.

3           Mr. Newburg, argument?

4           **MR. NEWBURG:** Thank you, Judge.

5           Judge, the question really is whether there's a risk  
6 of -- risk to the community or nonappearance.

7           One of the issues that the Court should be aware of  
8 is that a CPS investigation was conducted and there was no harm  
9 to my client's children that were disclosed by them. And  
10 within a 24-hour period of CPS involvement, he was back in his  
11 home. That happened this year after the -- just shortly prior  
12 to the execution of the search warrant which was testified here  
13 today.

14           Dr. Nassar has known that he's been under  
15 investigation since August of this year, if not earlier, and he  
16 has routinely -- in fact at one point went and met with MSU  
17 Police Department, gave an interview. He did not flee. He did  
18 not run. When he was arrested in Ingham County and arraigned,  
19 he was placed on a tether, and he was found by FBI agents at  
20 his house in the tether. He's been in compliance with the bond  
21 conditions that were imposed by Judge Allen in the state court.

22           There is -- his passport has been surrendered. And  
23 I'm going to ask and indicate to the Court that the  
24 recommendation is based on -- the pretrial statement is based  
25 on a recommendation that would not allow him to be around any

1 other members of the community and be tethered to his home. I  
2 would ask the Court acknowledge and adopt that recommendation.

3 He will appear for court. Frankly, Judge, he's got  
4 no other means at this point to go anywhere or to do anything.  
5 I think he's demonstrated throughout the course of not just  
6 this investigation when the search warrant was executed but  
7 prior to that that he intends on staying here and addressing  
8 the allegations that are against him. Thank you.

9 *THE COURT:* You're welcome.

10 I would note for the record that I have read the  
11 Pretrial Services Report, adopt it, and make it part of the  
12 record of this proceeding.

13 The Pretrial Services Department has recommended  
14 release subject to a number of conditions, including home  
15 detention with location monitoring per the Adam Walsh Act and  
16 no contact with children other than his own.

17 The Court's decision regarding bond must begin with  
18 the Eighth Amendment to the United States Constitution which  
19 creates the right to reasonable bail. The Eighth Amendment's  
20 requirements are codified in the Bail Reform Act,  
21 18 U.S.C. 3142(b), which requires that the Court order the  
22 pretrial release of the defendant on personal recognizance  
23 unless the Court determines the release will not reasonably  
24 assure the appearance of the defendant or the safety of the  
25 community. Even where release on personal recognizance may not

1       be appropriate, 3142(c) requires the Court to order release  
2       subject to the least-restrictive condition or a combination of  
3       conditions that will assure appearance and safety of the  
4       community unless the Court concludes that there are no such  
5       conditions.

6                     Dr. Nassar, your case is different than some cases  
7       that come before me. Mr. Lewis has pointed out that  
8       difference. Because of the charge -- charges pending against  
9       you, federal law creates a presumption that there is no  
10      condition or combination of conditions that will ensure the  
11      safety of the community. And further, it gives rise to a  
12      presumption that you should be held in custody while the case  
13      is pending.

14                   On the two issues before me with regard to bond, they  
15      are first risk of flight. The government bears a burden of  
16      proving by a preponderance of the evidence that Dr. Nassar  
17      poses a risk of flight. On the issue of danger to the  
18      community, the government's burden is to prove by clear and  
19      convincing evidence that he is such a danger.

20                   3142(g) lays out the factors the Court is to consider  
21      in making its bond determination. The nature and circumstances  
22      of the offense are one of those factors. The Court must  
23      determine whether the offense involves a crime of violence or a  
24      narcotic drug offense. While the charged offenses are not  
25      crimes of violence or narcotic drug offenses, there's certainly

1       plenty of testimony from Agent Charles that would support a  
2       finding that Dr. Nassar has been involved in violent crimes  
3       against children.

4                 The second factor the Court is to consider is the  
5       weight of the evidence against the defendant. I would  
6       characterize the evidence in this case as very heavy against  
7       Dr. Nassar.

8                 The history and characteristics of the defendant,  
9       including physical and mental condition. As far as I know  
10      there's no physical or mental issues with Dr. Nassar. At least  
11      none flagged in the Pretrial Services Report. He certainly has  
12      family ties to Lansing. His wife lives there. His three  
13      children live there. His mother lives in the Eastern District  
14      of Michigan, along with two siblings who he also maintains  
15      regular contact with.

16                 He is not presently employed since his termination by  
17      Michigan State.

18                 He's lived in the Lansing area since approximately  
19      1988. No history of drug or alcohol abuse. No criminal  
20      history. And thus no history of failing to appear at any court  
21      proceedings.

22                 Mr. Newburg points out that Dr. Nassar has known  
23      about these charges for some time, and despite knowing that he  
24      has not fled. In fact, at least at some level has attempted to  
25      cooperate with the investigation of this matter. He's

1 surrendered his passport, so he would be unable to leave the  
2 country legally in any event.

3 I don't believe risk of flight is an issue here. In  
4 any event, I find that the government has not demonstrated by a  
5 preponderance that Dr. Nassar is a flight risk. I think if he  
6 was going to go, he would have gone, and he hasn't.

7 That leaves us, then, with two issues really. The  
8 presumption, which I haven't dealt with yet, and then the  
9 question of danger to the community.

10 The two issues are interrelated, and it's my findings  
11 based upon a totality of the circumstances, relying upon  
12 principally the testimony of Agent Charles on the witness  
13 stand, that Dr. Nassar has not overcome the presumption that  
14 he's a danger to the community. In fact, quite to the  
15 contrary. If the testimony of Agent Charles is accurate,  
16 Dr. Nassar poses the worst kind of risk to our community: A  
17 risk to our children. We simply can't have somebody like him  
18 free in the community with access to children as young as  
19 six years old. And 60 victims so far have come forward and  
20 said that he has sexually assaulted them. If true, that's  
21 appalling, and I certainly am not going to set Dr. Nassar loose  
22 in our community until this case is resolved. So it's my  
23 finding that he'll be remanded to the custody of the marshals  
24 for the balance of this case.

25 Mr. Lewis, anything further from the United States on

1       this matter?

2                  ~~MR. LEWIS:~~ No, thank you, Your Honor.

3                  ~~THE COURT:~~ Mr. Newburg, anything from you, sir?

4                  ~~MR. NEWBURG:~~ No, Judge. Thank you.

5                  ~~THE COURT:~~ All right. You're welcome.

6                  Dr. Nassar, I know you disagree with my decision here  
7        this afternoon, but do you understand what happened in court?

8                  ~~THE DEFENDANT:~~ I don't understand why -- yes.

9                  ~~THE COURT:~~ Do you have any questions for me before I  
10      adjourn your case?

11                 ~~THE DEFENDANT:~~ No.

12                 ~~THE COURT:~~ All right. Good luck to you, sir. We're  
13      adjourned.

14                 ~~THE CLERK:~~ All rise. Court is adjourned.

15                 *(Proceeding concluded at 2:22 p.m.)*

16                 \* \* \* \* \*

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1 CERTIFICATE

2 I certify that the foregoing is a transcript from the  
3 Liberty Court Recording System digital recording of the  
4 proceedings in the above-entitled matter, transcribed to the  
5 best of my ability.

6 I further certify that the transcript fees and format  
7 comply with those prescribed by the court and the Judicial  
8 Conference of the United States.

9  
10 December 23, 2016

11  
12 /s/ Glenda Trexler  
13 Glenda Trexler, CSR-1436, RPR, CRR  
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